

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NANCY AMHAZ, *on behalf of herself, FLSA*
Collective Plaintiffs, and the Class, RAVEN
BRITT, BRET HAMILTON, MONICA
HIDALGO,

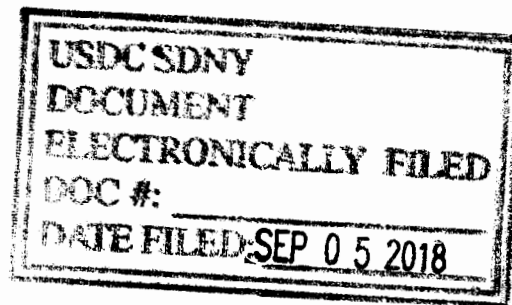
Plaintiffs,

-against-

BOOKING.COM (USA) INC., AND JOHN
DOE'S #1-10,

Defendants.
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GEORGE B. DANIELS, United States District Judge:



MEMORANDUM DECISION
AND ORDER

17 Civ. 2120 (GBD) (HBP)

Plaintiff Nancy Amhaz, on behalf of herself and others similarly situated, brings this action under the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201 *et seq.*, and the New York Labor Law, alleging, among other things, that Defendant Booking.com (USA) Inc. failed to pay her overtime wages because it misclassified her and similarly situated employees under the FLSA's administrative exemption. (*See* Compl., ECF No. 1.) Plaintiff now moves, pursuant to 29 U.S.C. § 216(b), for an order certifying a collective action on behalf of all junior account managers, account managers, and key account managers employed by Defendant throughout the United States during the three-year period preceding the filing of the complaint. (*See* Pl.'s Mot. to Certify Collective Action, ECF No. 36.) Plaintiff also seeks an order approving her proposed notice of the collective action and authorizing her to mail the notice to all potential plaintiffs, as well as compelling Defendant to post the notice in its offices nationwide. (*Id.*)

This case was referred to Magistrate Judge Henry B. Pitman for general pretrial supervision and the resolution of certain non-dispositive matters. (*See* ECF No. 29.) Before this Court is Magistrate Judge Pitman's Report and Recommendation dated August 23, 2018 ("Report,"

ECF No. 74), recommending that this Court conditionally certify a collective action on behalf of account managers and key account managers employed in Defendant's New York and Las Vegas offices, and key account managers employed in Defendant's Los Angeles office.¹ (*Id.* at 26–27.) The Report further recommends that this Court deny Plaintiff's motion in all other respects and that the parties be directed to meet and confer to submit a joint collective notice proposal. (*Id.*)

In his Report, Magistrate Judge Pitman advised the parties that failure to file timely objections to the Report would constitute a waiver of those objections on appeal. (*Id.* at 27–28); *see also* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). By letter dated September 5, 2018, counsel indicated that they would not be filing any objections to the Report. (*See* ECF No. 75.)

A court may accept, reject, or modify, in whole or in part, the findings set forth in a report and recommendation. 28 U.S.C. § 636(b)(1)(C). Where no party files objections to a report and recommendation, as here, the court may adopt it if “there is no clear error on the face of the record.” *Adee Motor Cars, LLC v. Amato*, 388 F. Supp. 2d 250, 253 (S.D.N.Y. 2005) (quoting *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). Clear error is present only when “upon review of the entire record, [the court is] left with the definite and firm conviction that a mistake has been committed.” *United States v. Snow*, 462 F.3d 55, 72 (2d Cir. 2006) (citation omitted).


Having reviewed the Report for clear error and finding none, this Court ADOPTS the Report in its entirety. This Court conditionally certifies a collective action of account managers and key account managers in Defendant's New York and Las Vegas offices and key account managers in Defendant's Los Angeles office. Plaintiff's motion is denied in all other respects.

¹ The procedural and factual background is set forth in greater detail in the Report and is incorporated by reference herein.

To the extent they have not already done so, the parties are directed to meet and confer and submit to Magistrate Judge Pitman a joint collective notice proposal for his review.

Dated: New York, New York
September 5, 2018

SO ORDERED.



GEORGE B. DANIELS
United States District Judge